

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: S1/16/07

A Bill

SENATE BILL 20

5 By: Senator Altes
6 *By: Representatives Medley, Walters, Wells*
7

For An Act To Be Entitled

10 AN ACT TO ESTABLISH A PRESCRIPTION DRUG
11 MONITORING PROGRAM; AND FOR OTHER PURPOSES.
12

Subtitle

14 AN ACT TO ESTABLISH A PRESCRIPTION DRUG
15 MONITORING PROGRAM.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code Title 20, Chapter 7 is amended to add an
21 additional subchapter to read as follows:

22 20-7-501. Title.

23 This subchapter shall be known and may be cited as the "Prescription
24 Drug Monitoring Program Act".
25

26 20-7-502. Purpose.

27 The General Assembly intends to protect the state health system by
28 improving the state's ability to identify and stop diversion of prescription
29 drugs in an efficient and cost-effective manner that will not impede the
30 appropriate medical use of controlled substances.
31

32 20-7-503. Definitions.

33 As used in this subchapter:

34 (1) "Administer" means the direct application of a controlled
35 substance, whether by injection, inhalation, ingestion, or any other means to
36 the body of a patient or research subject by a person licensed in this state



1 to directly apply controlled substances;

2 (2)(A) "Dispenser" means a person who delivers Schedule II-V
3 controlled substances.

4 (B) "Dispenser" does not include:

5 (i) A licensed hospital pharmacy that distributes
6 Schedule II-V controlled substances:

7 (a) For the purpose of inpatient hospital
8 care; and

9 (b) At the time of discharge from a hospital;

10 (ii) A nursing home or hospice;

11 (iii) A person licensed in this state to administer
12 Schedule II-V controlled substances; or

13 (iv) A wholesale distributor of Schedule II-V
14 controlled substances;

15 (3) "Division" means the Division of Health of the Department of
16 Health and Human Services;

17 (4) "Interoperability" means the ability of the program to
18 electronically share reported information with another state if the
19 information concerns either the dispensing of a controlled substance:

20 (A) To a patient who resides in the other state; or

21 (B) Prescribed by a practitioner whose principal place of
22 business is located in the other state;

23 (5) "Patient" means the person who is the ultimate user of a
24 Schedule II-V controlled substance for whom a prescription is issued or for
25 whom a drug is dispensed, or both; and

26 (6) "Schedule II-V controlled substances" means controlled
27 substances that are listed in Schedules II, III, IV, and V under § 5-64-201,
28 et seq.

29
30 20-7-504. Requirements for the prescription drug monitoring program.

31 (a)(1) The Division of Health of the Department of Health and Human
32 Services shall establish and maintain an electronic program for monitoring
33 the prescribing and dispensing of all:

34 (A) Schedule II-V controlled substances; and

35 (B) Any other drugs identified by the division as
36 demonstrating a potential for abuse.

1 (2) The program shall be:

2 (A) An electronic database containing the information
3 reported under this section;

4 (B) Be searchable by any field or combination of fields;
5 and

6 (C) Include reported information in the database
7 consistent with criteria established by the State Board of Health with
8 appropriate safeguards for ensuring the accuracy and completeness of the
9 database.

10 (3) The division shall take appropriate security measures to
11 protect the integrity of and access to the database.

12 (b) Each dispenser shall submit to the division by electronic means at
13 least the following information regarding each prescription included under
14 subsection (a) of this section that is dispensed:

15 (1) The dispenser identification number;

16 (2) The date the prescription was filled;

17 (3) The prescription number;

18 (4) Whether the prescription is new or is a refill;

19 (5) For each drug dispensed:

20 (A) The National Drug Code number;

21 (B) The quantity;

22 (C) Whether the drug was dispensed as a refill of a
23 prescription or as a first-time request;

24 (D) The number of days' supply; and

25 (E) The patient identification number;

26 (6) The patient's:

27 (A) Name;

28 (B) Address; and

29 (C) Date of birth;

30 (7) The prescriber's identification number;

31 (8) The date the prescription was issued by the prescriber;

32 (9) The name of the person who received the prescription from
33 the dispenser, if other than the patient;

34 (10) The source of payment for the prescription; and

35 (11) Other information the board may deem important to meet the
36 requirements of this subchapter.

1 (c)(1) Each dispenser shall submit the information required under this
2 section in accordance with transmission methods and frequency established by
3 the division.

4 (2) The division shall require that each dispenser report the
5 required information at least every thirty (30) days, between the first and
6 the fifteenth days of the month following the month the prescription was
7 dispensed.

8 (d)(1) The division may issue a waiver to a dispenser that is unable
9 to submit prescription information by electronic means.

10 (2)(A) The waiver may permit the dispenser to submit
11 prescription information by paper form or other means.

12 (B) The waiver shall require that information required in
13 subsection (b) of this section be submitted in the alternative format.

14
15 20-7-505. Access to prescription information.

16 (a) Except as provided in subsections (c) – (e) of this section,
17 prescription information submitted to the Division of Health of the
18 Department of Health and Human Services shall be confidential and shall not
19 be subject to the Freedom of Information Act of 1967, § 25-19-101 et seq..

20 (b) Except as provided in subsections (c) – (e) of this section, the
21 division shall ensure that the privacy and confidentiality of patients and
22 patient information collected, recorded, transmitted, and maintained is not
23 disclosed.

24 (c)(1) Within thirty (30) days of receipt, the division shall review
25 the prescription information required under this subchapter.

26 (2)(A) If there is reasonable cause to believe that a violation
27 of law or breach of professional standards has occurred, the division shall
28 notify the appropriate law enforcement or professional licensing,
29 certification, or regulatory agency or entity.

30 (B) The division shall provide the agency or entity with
31 any prescription monitoring program information that is required for an
32 investigation.

33 (d) The division may provide data in the prescription monitoring
34 program to the following:

35 (1) Persons authorized to prescribe or dispense controlled
36 substances for the purpose of providing medical or pharmaceutical care for

1 their patients;

2 (2) An individual who requests the individual's own prescription
3 monitoring information in accordance with procedures established under § 16-
4 46-106;

5 (3) The Arkansas State Medical Board;

6 (4) The Arkansas State Board of Pharmacy;

7 (5) The Arkansas State Board of Nursing;

8 (6) Other divisions of the Department of Health and Human
9 Services; and

10 (7) Local, state, and federal law enforcement or prosecutorial
11 officials engaged in the administration, investigation, or enforcement of the
12 laws governing controlled substances.

13 (e) The division may provide data to public or private entities for
14 statistical, research, or educational purposes after removing information
15 that could be used to identify individual patients or persons who received
16 prescriptions from dispensers.

17
18 20-7-506. Authority to contract.

19 (a) The Division of Health of the Department of Health and Human
20 Services may contract with another agency of this state or with a private
21 vendor to ensure the effective operation of the prescription monitoring
22 program.

23 (b) Any contractor shall be bound to comply with the provisions
24 regarding confidentiality of prescription information under this subchapter
25 and shall be subject to the penalties specified in this subchapter.

26
27 20-7-507. Unlawful acts – Penalties.

28 (a) A person authorized to have prescription monitoring information
29 under this subchapter who knowingly discloses that information shall be
30 guilty of a Class A misdemeanor.

31 (b) A person authorized to have prescription monitoring information
32 under this subchapter who uses that information in a manner or for a purpose
33 in violation of this subchapter shall be guilty of a Class B misdemeanor.

34 (c) A dispenser who knowingly fails to submit to the Division of
35 Health of the Department of Health and Human Services prescription monitoring
36 information as required by this subchapter or who knowingly submits incorrect

1 prescription information shall be guilty of a Class C misdemeanor.

2 (d) A dispenser who uses or discloses confidential information
3 received from the prescription monitoring program in a manner or for a
4 purpose in violation of this subchapter shall be subject to disciplinary
5 action by the dispenser's licensing board.

6
7 20-7-508. Rules.

8 (a) The State Board of Health shall promulgate rules necessary to
9 implement this subchapter, including, but not limited to a provision for
10 interoperability.

11 (b) The board shall apply to the Secretary of the federal Department
12 of Health and Human Services for grants to implement this subchapter in
13 accordance with the National All Schedules Prescription Electronic Reporting
14 Act of 2005, 42 U.S.C. § 280g-3.

15 (c) The board shall seek diligently to receive federal funds to
16 implement this subchapter, including, but not limited to, funds from the
17 National All Schedules Prescription Electronic Reporting Act of 2005, Pub. L.
18 No. 109-60.

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20 20-7-509. Fund availability.

21 This subsection shall take effect only if funds are available.

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23 */s/ Altes*